



**Subject:** Impact of U.S. Government Shutdown on NYSE Listing Applications

**Date:** January 24, 2019

## **Overview**

The New York Stock Exchange (the “NYSE” or the “Exchange”) has received inquiries about the impact of the U.S. federal government shutdown on the Exchange’s ability to approve companies for listing. While the federal government remains closed, the Securities and Exchange Commission (“SEC”) has ceased regular operations. As a consequence, SEC staff are unable to review and declare registration statements effective. The SEC’s Division of Corporate Finance recently published a set of [FAQs](#) to address how registration statements may go effective without SEC action during the government shutdown.

The Exchange is publishing the following FAQs in order to provide guidance on how it will evaluate companies for listing on the Exchange while the federal government remains closed. The Exchange encourages companies seeking to list during the government shutdown to contact its Initial Listings team at 212-656-4050.

### ***How can a registration statement go effective without SEC action during the government shutdown?***

Pursuant to Section 8(a) of the Securities Act of 1933 (the “Securities Act”), a registration statement may become effective, without SEC action, twenty days after the date on which it is filed with the SEC under limited circumstances. To become effective in this manner, a registration statement must (i) include the language required by Rule 473(b) and (ii) contain all information required by the form, including the price of the securities the issuer will sell.

In its FAQ, the SEC’s Division of Corporate Finance specified that Rule 430A is not available to issuers seeking to have their registration statement go effective without SEC action.

### ***Will the NYSE list a company that cleared all SEC comments prior to the shutdown?***

The Exchange would generally list a company that cleared all SEC comments before the shutdown, regardless of whether such company’s registration statement was effective prior to the shutdown or becomes effective during the shutdown pursuant to the provisions of Section 8(a) of the Securities Act. Such company must complete the Exchange’s usual application process and meet all applicable initial listing requirements.

### ***Will the NYSE list a company with outstanding SEC comments?***

The Exchange will evaluate the listing of a company with outstanding SEC comments on its registration statement on a case-by-case basis. In completing this evaluation, the Exchange will consider the number and substance of the outstanding comments as well as the company's proposed response thereto and any discussions the company may have had with SEC staff prior to the shutdown. In addition, the Exchange will consider whether the company's outside legal counsel and auditors are willing to represent that the company's disclosure is materially complete and that the SEC's comments have been substantially addressed. If the Exchange believes that a company has largely completed the SEC comment process, it will consider listing the company once its registration statement has become effective

***Will the NYSE list a company that has not yet received SEC comments or that first filed its registration statement during the government shutdown?***

The Exchange will generally not list a company that had not received SEC comments on its registration statement prior to the government shutdown or that first filed during the government shutdown. Consistent with its approach detailed above, the Exchange believes that a company's disclosure should be materially complete and outstanding comments substantially addressed before the Exchange would consider it suitable for listing.

Should the government remain closed for a prolonged period, the Exchange may revisit this position after consultation with SEC staff and other relevant parties.